THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.21509 of 2007

Between:

Hussain Bin Nazar.

.. PETITIONER

and

The Government of A.P. and others.

.. RESPONDENTS

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ORDER:

This writ petition has been filed seeking a Writ of Mandamus declaring

the action of the Government-1st respondent in passing proceedings in G.O.Ms.No.1240, Revenue (ASN-II) Department, dated 28-08-2006, as illegal and arbitrary.

It is the case of the petitioner that he has been in continuous possession and enjoyment of the agricultural land admeasuring Ac.2-00 gts. in Sy.No.446 situated at Perkit village, Armoor Mandal, Nizamabad District and he developed the said land by investing huge amounts. While so, the 3rd respondent passed an order under Section 6 of the Act on 09-04-1990 after issuing notice under Section 7 of the Act on 22-02-1990 stating that though the land admeasuring Ac.2-00 gts. in Sy.No.446 situated at Perkit Village, Armoor Mandal, Nizamabad District, was assigned in favour of the father of the petitioner, the petitioner illegally occupied another extent of the land admeasuring Ac.2-00 gts. and, therefore, the petitioner is liable to be evicted. Aggrieved by the same, the petitioner filed an appeal before the 2nd respondent and the 2nd respondent through his order, dated 02-12-1992, dismissed the appeal confirming the order passed by the 3rd respondent. Aggrieved by the said order, the petitioner filed a revision before the 1st respondent and the 1st respondent through its impugned G.O. dismissed the revision. Aggrieved by the same, this writ petition has been filed**.**

A perusal of the impugned orders goes to show that the petitioner illegally occupied the agricultural land admeasuring Ac.2-00 gts. in Sy.No.446 situated at Perkit village, Armoor Mandal, Nizamabad District and therefore, the 3rd respondent issued notice to the petitioner under Section 7 of the Act on 22-02-2007. Pursuant to the said notice, the petitioner submitted a reply stating that he has been in continuous possession and enjoyment of the

same by cultivating the said land since three decades and he also made several representations to the revenue authorities for grant of assignment in his favour. But, the 3rd respondent without considering the same, passed eviction orders on 09-04-1990. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent and the 2nd respondent dismissed the appeal confirming the order passed by the 3rd respondent. Aggrieved by the same, the petitioner preferred a revision before the 1st respondent. The 1st respondent dismissed the revision through order, dated 11-11-1994, vide G.O.Ms.No.1156. Aggrieved by the same, the petitioner filed W.P.No.1981 of 1995 before this Court and the said writ petition was allowed in part setting aside the order of the Government dated 11-11-1994 on the ground that the said revision was disposed of without hearing and without giving any opportunity to the petitioner and accordingly, directed the revisional authority to give notice of hearing to the petitioner and dispose of the revision as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of the said order. After remand, the petitioner was given notice informing about the postings of the case i.e., on 03-06-2006, 30-06-2006 and 22-07-2006. The petitioner attended before the Revisional Authority and filed written statement through his counsel stating that he has been in continuous possession and enjoyment of the Government land admeasuring Ac.2-00 gts. in Sy.No.446 situated at Perkit Village, Armoor Mandal, Nizamabad District and he occupied the said land way back in the year 1970. He belongs to Muslim Minority Community and there is no other source of income for his livelihood except from agricultural land, which he encroached. He spent substantial amount for developing the said land.

He also applied for grant of patta certificate before the Mandal Revenue Officer, Armoor. But, his request was not considered and eviction proceedings have been initiated in the year 1990. It is also stated that he went to Dubai on temporary job work to earn money in order to clear off the loans/debts he incurred for development of land in question and also to perform marriage of his children. It is also stated that if the Government feels that the petitioner does not come under the purview of landless poor, he requested the Government to allot the land in question on payment of market value as fixed by it.

The 1st respondent, after considering all the said contentions and after perusing the material available on record, dismissed the revision on the grounds that the father of the petitioner was assigned the land admeasuring Ac.2-00 gts. in Sy.No.446 situated at Perkit village, Armoor Mandal, Nizamabad District, in the year 1985. In addition to that, the petitioner illegally occupied the land admeasuring Ac.2-00 gts. Further, the petitioner is not a landless poor and the economic status of the petitioner is good enough to make him ineligible for assignment. Further, once the family of the petitioner was given benefit of assignment and the petitioner was having good economic background, he is not entitled for assignment of the land in question.

Admittedly, once the family of the petitioner was given benefit of assignment of Ac.2-00 gts., he is not entitled to encroach another extent of Ac.2-00 gts. Therefore, I am of the opinion that the 1st respondent rightly considered all the contentions and upheld the eviction orders passed by the 2nd respondent as well as the 3rd respondent. Further, the Government lands are not meant for encroaching by the persons like petitioner taking advantage

of the fact that the encroached land is abutting to the assigned land. Therefore, I am of the opinion that the petitioner is not entitled for assignment of the land in question.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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08-10-2007

Prv